

NO. 5:01-CR-253

Respondent.

$$\begin{array}{c}) \\) \\) \\) \\) \\) \\) \\) \\) \\) \end{array}$$

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DISCUSSION

The Defendant's Motion is dismissed as a successive 28 U.S.C. § 2255 Motion. The Court lacks jurisdiction to hear Petitioner's § 2255 because she has failed to secure permission from the Fourth Circuit Court of Appeals to file this petition.


The Fourth Circuit has held that courts must classify pro se pleadings from prisoners according to their contents, regardless of the label given in the caption. See United States v. Blackstock, 513 F.3d 128, 131 (4th Cir 2008). Additionally, second or successive § 2255 petitions are prohibited unless the petitioner has secured permission from the appropriate court of appeals to file the petition. See, e.g., United States v. Winestock, 340 F.3d 200, 206 (4th Cir. 2003).

Petitioner motions for a reduction in her sentence. As this motion seeks post-conviction relief, it should be viewed as a petition under 28 U.S.C. § 2255. This is Petitioner's second § 2255 petition and he has not secured permission from the Fourth Circuit to re-file. Thus, the Court has no jurisdiction to hear his Motion.

CONCLUSION

Petitioner's Motion is DISMISSED.

SO ORDERED, this 10 day of July, 2011.


TERRENCE W. BOYLE
UNITED STATES DISTRICT JUDGE